

# **Exhibit 09**

Redacted Public Version

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Page 1

IN THE UNITED STATES DISTRICT COURT.

FOR THE SOUTHERN DISTRICT OF NEW YORK

NIKE, INC.,

Plaintiff,

vs.

Case No. 22-CV-983 (VEC)

STOCKX, LLC,

Defendant.

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The Videotaped Deposition of JACOB FENTON,  
Taken at 28 West Adams Avenue, Suite 1500,  
Detroit, Michigan,  
Commencing at 8:48 a.m.,  
Friday, December 2, 2022,  
Before Stenographic Shorthand Reporter,  
Lori Ann Baldwin, CSR-5207, RPR, CRR.

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<p>Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 TAMAR Y. DUVDEVANI</p> <p>4 GABRIELLE VELKES</p> <p>5 DLA Piper LLP (US)</p> <p>6 1251 Avenue of the Americas</p> <p>7 New York, New York 10020-1104</p> <p>8 212.335.4799</p> <p>9 tamar.duvdevani@dlapiper.com</p> <p>10 gabrielle.velkes@us.dlapiper.com</p> <p>11 Appearing on behalf of Plaintiff.</p> <p>12</p> <p>13 CHRISTOPHER S. FORD</p> <p>14 Debevoise &amp; Plimpton LLP</p> <p>15 650 California Street</p> <p>16 San Francisco, California 94108</p> <p>17 415.738.5705</p> <p>18 csford@debevoise.com</p> <p>19 Appearing on behalf of Defendant.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 APPEARANCES (Continued)...</p>	<p>Page 4</p> <p>1 TABLE OF CONTENTS</p> <p>2 WITNESS PAGE</p> <p>3 JACOB FENTON</p> <p>4</p> <p>5 EXAMINATION BY MS. DUVDEVANI:</p> <p>6 9</p> <p>7 EXAMINATION BY MS. BANNIGAN:</p> <p>8 175</p> <p>9 EXHIBITS</p> <p>10 EXHIBIT PAGE</p> <p>11 (Exhibits attached to transcript.)</p> <p>12</p> <p>13 DEPOSITION EXHIBIT 1 22</p> <p>14 Defendant's Objections and Responses to</p> <p>15 Plaintiff's First Set of</p> <p>16 Interrogatories</p> <p>17 DEPOSITION EXHIBIT 2 25</p> <p>18 Defendant's Objections and Responses to</p> <p>19 Plaintiff's Second Set of</p> <p>20 Interrogatories</p> <p>21 DEPOSITION EXHIBIT 3 33</p> <p>22 STX0018015-STX0018026</p> <p>23 DEPOSITION EXHIBIT 4 38</p> <p>24 STX0018406-STX0018414</p> <p>25 DEPOSITION EXHIBIT 5 52</p>
<p>Page 3</p> <p>1 APPEARANCES (Continued):</p> <p>2</p> <p>3 MEGAN K. BANNIGAN</p> <p>4 CATHERINE WALSH</p> <p>5 Debevoise &amp; Plimpton LLP</p> <p>6 919 Third Avenue</p> <p>7 New York, New York 10022</p> <p>8 212.909.6127</p> <p>9 mkbannigan@debevoise.com</p> <p>10 cwalsh@debevoise.com</p> <p>11 Appearing on behalf of Defendant.</p> <p>12</p> <p>13 ALSO PRESENT:</p> <p>14 Laura Lewis - In-house Counsel for StockX, LLC</p> <p>15 Nicholas Houslander - Videographer</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 5</p> <p>1 STX0018415-STX0018451</p> <p>2 DEPOSITION EXHIBIT 6 58</p> <p>3 STX0018453-STX0018499</p> <p>4 DEPOSITION EXHIBIT 7 60</p> <p>5 STX0019269-STX19273</p> <p>6 DEPOSITION EXHIBIT 8 64</p> <p>7 STX0019778-STX0019779</p> <p>8 DEPOSITION EXHIBIT 9 66</p> <p>9 STX0019820-STX0019832</p> <p>10 DEPOSITION EXHIBIT 10 71</p> <p>11 STX0019985-STX0010006</p> <p>12 DEPOSITION EXHIBIT 11 81</p> <p>13 STX0020185-STX0020188</p> <p>14 DEPOSITION EXHIBIT 12 84</p> <p>15 STX0018010-STX0018014</p> <p>16 DEPOSITION EXHIBIT 13 93</p> <p>17 STX0019984</p> <p>18 DEPOSITION EXHIBIT 14 94</p> <p>19 STX0020225-STX0020268</p> <p>20 DEPOSITION EXHIBIT 15 102</p> <p>21 STX0021182-STX0021188</p> <p>22 DEPOSITION EXHIBIT 16 107</p> <p>23 STX0021481-STX0021498</p> <p>24 DEPOSITION EXHIBIT 17 112</p> <p>25 STX0041984-STX0041988</p>

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<p>Page 6</p> <p>1 DEPOSITION EXHIBIT 18 117</p> <p>2 STX0043497-STX0043499</p> <p>3 DEPOSITION EXHIBIT 19 118</p> <p>4 STX0053450-STX0053451</p> <p>5 DEPOSITION EXHIBIT 20 124</p> <p>6 STX0061838-STX0061842</p> <p>7 DEPOSITION EXHIBIT 21 128</p> <p>8 STX61927-STX61931</p> <p>9 DEPOSITION EXHIBIT 22 138</p> <p>10 STX0092816</p> <p>11 DEPOSITION EXHIBIT 23 146</p> <p>12 STX0096301-STX0096306</p> <p>13 DEPOSITION EXHIBIT 24 147</p> <p>14 STX00928240-STX0092825</p> <p>15 DEPOSITION EXHIBIT 25 156</p> <p>16 NIKE0038783-NIKE0038788</p> <p>17 DEPOSITION EXHIBIT 26 157</p> <p>18 STX0097403</p> <p>19 DEPOSITION EXHIBIT 27 161</p> <p>20 STX0097786-STX0097797</p> <p>21 DEPOSITION EXHIBIT 28 166</p> <p>22 STX0099953-STX0099954</p> <p>23 DEPOSITION EXHIBIT 29 169</p> <p>24 STX0169269-00169277</p> <p>25</p>	<p>Page 8</p> <p>1 I am not authorized to administer an oath.</p> <p>2 I am not related to any party in this action, nor am I</p> <p>3 financially interested in the outcome.</p> <p>4 Counsel and all present in the room will</p> <p>5 now state their appearances and affiliations for the</p> <p>6 record. If there are any objection to the proceeding,</p> <p>7 please state them at the time of your appearance</p> <p>8 beginning with the noticing attorney.</p> <p>9 MS. DUVDEVANI: Good morning. Tamar</p> <p>10 Duvdevani, DLA Piper, on behalf of Nike, Inc.</p> <p>11 MS. VELKES: Good morning. Gabrielle</p> <p>12 Velkes from DLA Piper, on behalf of Nike, Inc.</p> <p>13 MS. BANNIGAN: Good morning. Megan</p> <p>14 Bannigan from Debevoise &amp; Plimpton on behalf of</p> <p>15 StockX.</p> <p>16 With me today are my colleagues from</p> <p>17 Debevoise &amp; Plimpton, Christopher Ford and Catherine</p> <p>18 Walsh, as well as Laura Lewis, in-house counsel for</p> <p>19 StockX.</p> <p>20 THE WITNESS: Jacob Fenton.</p> <p>21 THE REPORTER: Sir, can I ask you to raise</p> <p>22 your right hand, please?</p> <p>23 JACOB FENTON,</p> <p>24 Was thereupon called as a witness herein, and after</p> <p>25 having first been duly sworn to testify to the truth,</p>
<p>Page 7</p> <p>1 Detroit, Michigan</p> <p>2 Friday, December 2, 2022</p> <p>3 8:48 a.m.</p> <p>4</p> <p>5 VIDEO TECHNICIAN: Good morning. We are</p> <p>6 going on the record at 8:48 a.m. on Friday,</p> <p>7 December 2nd, 2022. Please note that microphones are</p> <p>8 sensitive and may pick up whispering, private</p> <p>9 conversations, and cellular interference. Please turn</p> <p>10 off all cell phones or place them away from the</p> <p>11 microphones as they can interfere with the deposition</p> <p>12 audio. Audio and video recording will continue to</p> <p>13 take place unless all parties agree to go off the</p> <p>14 record.</p> <p>15 This is the videotaped deposition of</p> <p>16 Jacob Fenton taken by counsel for the plaintiff in the</p> <p>17 matter of Nike, Incorporated versus StockX, LLC filed</p> <p>18 in the United States District Court for the Southern</p> <p>19 District of New York, case number 22-cv-00983-VEC.</p> <p>20 This deposition is being held at</p> <p>21 28 West Adams Avenue in Detroit, Michigan, 48226. My</p> <p>22 name is Nicholas Houslander from the firm Veritext</p> <p>23 Legal Solutions and I'm the videographer. The court</p> <p>24 reporter today is Lori Baldwin, from the firm Veritext</p> <p>25 Legal Solutions.</p>	<p>Page 9</p> <p>1 the whole truth and nothing but the truth, was</p> <p>2 examined and testified as follows:</p> <p>3 THE REPORTER: Thanks.</p> <p>4 EXAMINATION</p> <p>5 BY MS. DUVDEVANI:</p> <p>6 Q. Good morning, Mr. Fenton.</p> <p>7 A. Good morning.</p> <p>8 Q. Have you ever been deposed before?</p> <p>9 A. No, I have not.</p> <p>10 Q. I had a sense. I -- I'm sure that Megan went over</p> <p>11 some ground rules with you, so I'll be brief. Most</p> <p>12 important ground rule is to try not to talk over one</p> <p>13 another so Lori doesn't kill us and so we can get a --</p> <p>14 a clean transcript.</p> <p>15 Even though we are keen to try to get out</p> <p>16 of here as early as possible on this brisk Friday, the</p> <p>17 day really is yours. To the extent you need a break,</p> <p>18 you just let me know, I will try to take a short break</p> <p>19 every hour or so. The only thing that I would ask of</p> <p>20 you is not to ask for a break while a question is</p> <p>21 pending, only after you answer a question.</p> <p>22 Do you understand all that?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. Did you prepare for today's deposition?</p> <p>25 A. Yes.</p>

3 (Pages 6 - 9)

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1 Q. Who would know?  
2 A. Probably Tim McCurdy or Sean McCartney. I believe  
3 they are destroyed.

[illegible]

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1 MS. BANNIGAN: Objection to form.

9 BY MS. DUVDEVANI:  
10 Q. Okay. Going to the next page of document 12 --  
11 Exhibit 12, 18011. We see again on the top that you,  
12 that "StockX stopped over 55,000 fakes from being  
13 sold," correct?  
14 A. Correct.  
15 Q. That's a very large number of people sending fake  
16 products to StockX. Would you agree with that?  
17 MS. BANNIGAN: Objection to form.  
18 A. I -- I love seeing this number. I think it speaks to,  
19 like, why we exist. We've rejected hundreds of  
20 millions of dollars of items because we literally  
21 exist to combat counterfeits and to simplify the  
22 experience for customers trying to get what they want  
23 so when I see that, I see it as validation that  
24 counterfeiting is alive and well and that there are  
25 great partners like StockX to protect customers.

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1 BY MS. DUVDEVANI:  
2 Q. Why do you think that sellers attempted to pass over  
3 55,000 fake products on the StockX platform?  
4 MS. BANNIGAN: Objection to form.  
5 A. You will have to ask them, but to try and make money.  
6 BY MS. DUVDEVANI:  
7 Q. Looking at the fifth bullet point, "Most attempted  
8 fakes at the product level by vertical, 2021."  
9 Do you see that?  
10 A. I do.  
11 Q. Okay. So under "Sneakers," are those products the  
12 most attempted fakes that sellers try to sell on the  
13 StockX platform.  
14 A. As of the making of this document, I would assume  
15 that's true, yes.  
16 Q. Okay. Those are all Nike products, correct?  
17 A. The top five, that's correct.  
18 MS. BANNIGAN: Can we take a break?  
19 MS. DUVDEVANI: I was going to say. Yeah,  
20 we can take a break.  
21 VIDEO TECHNICIAN: We are going off the  
22 record. It is 11:17 a.m.  
23 (Off the record at 11:17 a.m.)  
24 (Back on the record at 11:25 a.m.)  
25 VIDEO TECHNICIAN: We are back on the

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1 record, the time is 11:25 a.m.  
2 MARKED FOR IDENTIFICATION:  
3 DEPOSITION EXHIBIT 13  
4 STX0019984  
5 11:25 a.m.  
6 BY MS. DUVDEVANI:  
7 Q. Mr. Fenton, the court reporter has handed you a  
8 document designated as Exhibit 13.  
9 Have you seen this document before?  
10 A. Not to my recollection.  
11 Q. Okay. I will represent that you are the custodian of  
12 this document. Do you know what it means on STX19984  
13 where it says "Authentication page refresh"?  
14 A. It may mean when, like, an update to the  
15 authentication page. It's very difficult to know with  
16 this little context.  
17 Q. Do you understand what the language below  
18 "Authentication page refresh" refers to?  
19 A. I mean, I'm familiar with the 99.96. I don't know  
20 what the 99.9 is, nor do I know what these sub bullets  
21 are.  
22 Q. Do you know who would know?  
23 A. I have no idea who this document is from, so no.  
24 Q. Let me ask you one more question about Exhibit 13.  
25 The last bullet says "Appeal process Jacob."

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1 CERTIFICATE  
2  
3 STATE OF MICHIGAN  
4 COUNTY OF OAKLAND  
5 LORI ANN BALDWIN, a Notary Public in and  
6 for the above county and state, do hereby certify that  
7 this Videotaped deposition was taken before me at the  
8 time and place hereinbefore set forth; that the  
9 witness was by me first duly sworn to testify to the  
10 truth; that this is a true, full and correct  
11 transcript of my stenographic notes so taken to the  
12 best of my skill and ability; and that I am not  
13 related, nor of counsel to either party, nor  
14 interested in the event of this cause.

15  
16  
17  
18 *Lori Baldwin*  
19

20  
21 Lori Ann Baldwin, CSR-5207, RPR, CRR  
22 Notary Public  
23 Oakland County, Michigan  
24 My commission expires: December 21, 2025  
25

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1 ERRATA SHEET  
2 VERITEXT/NEW YORK REPORTING, LLC  
3  
4 CASE NAME: Nike, Inc. v. Stockx, LLC  
5 DATE OF DEPOSITION: December 2, 2022  
6 WITNESS' NAME: Jacob Fenton

PAGE/LINE(s)/	CHANGE	REASON
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19  
20 JACOB FENTON

21 Subscribed and Sworn To  
22 Before Me This \_\_\_\_ Day  
23 of \_\_\_\_\_, 20 \_\_\_\_.

24 Notary Public

25 My Commission Expires \_\_\_\_\_

46 (Pages 178 - 179)

**Deposition Date: 12/2/2022****Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

<b>Page(s): Line(s)</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
30:3	at a variety of different things, <b>not</b> one of which is	at a variety of different things, one of which is	Clarification
31:15	by the people who buy cryptocurrency and buy NFTs.	<b>between</b> the people who buy cryptocurrency and buy NFTs.	Transcription Error
31:16	And we saw NFT technologies as a possible way to lower	And we saw <b>the</b> NFT <b>technology</b> as a possible way to lower	Transcription Error
32:6	Vault's, you know, is a name, a marketing name for it,	Vault's, you know, <b>the</b> name, a marketing name for it,	Transcription Error
37:11	Collective although not directly.	Collective although not directly <b>the same.</b>	Transcription Error
38:10	stamp STX001815 (sic) and went through STX0018026.	stamp STX00 <b>18015</b> and went through STX0018026.	Clarification
44:8	additions are?	<b>editions</b> are?	Transcription Error
47:19	author. Reading that paragraph holistically, the	author. <b>Q.</b> Reading that paragraph holistically, the	Transcription Error

**Deposition Date: 12/2/2022****Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

<b>Page(s): Line(s)</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
59:3-4	Okay, yes. Please repeat your question. I know what this is referring to. Trust.	Okay, yes. Please repeat your question. <b>Do</b> I know what this is referring to? Trust.	Transcription Error
64:25	and Goat across a couple of different topics.	and <b>GOAT</b> across a couple of different topics.	Typographical Error
83:25	very savvy and, you know, they might know a towel (ph)	very savvy and, you know, they might know a <b>tell</b>	Transcription Error
89:16	Possibly Tim McCurdy.	<b>Probably</b> Tim McCurdy.	Transcription Error
93:20	what the 99.9 is, nor do I know what these sub bullets	what the 99. <b>99</b> is, nor do I know what these sub bullets	Transcription Error
95:25	A. So, first of all, this is a talk track for this stack	A. So, first of all, this is a talk track for this <b>deck</b>	Transcription Error
96:2	What this means is that Stock -- you know,	What this means is that <b>StockX</b> -- you know,	Clarification
118:7	things out as clear as humanly possible, but that	things out as <b>clearly</b> as humanly possible, <b>and</b> that	Transcription Error



**Deposition Date: 12/2/2022****Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

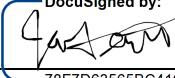
<b>Page(s): Line(s)</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
123:15	otherwise cause a ton of money to go to	otherwise <b>cost</b> a ton of money to go to	Transcription Error
133:25	I would want to be out way ahead of that.	I would want to, <b>normally</b> , be out way ahead of that.	Transcription Error
155:4	It's, I mean -- I think, it's the collection of	It's, I mean -- I think, <b>I don't know</b> , it's the collection of	Transcription Error
160:6	the right title, but he's helping in our Apps	the right title, but he's helping in our <b>Ops</b>	Transcription Error
162:10	accurate on 99.5 percent of orders, is one of our main	accurate on <b>99.95</b> percent of orders, is one of our main	Transcription Error
168:8	White <b>saying</b> that indicates that it's a StockX NFT	White <b>on something</b> that indicates that it's a StockX NFT	Transcription Error
170:11	company for people who would want to, for some reason	company <b>that</b> would want to, for some reason	Transcription Error

**Deposition Date: 12/2/2022****Deponent: Jacob Fenton – Errata Sheet****Case Name: Nike, Inc. v. StockX LLC, No. 22 CV 983 (VC) (SN)**

<b>Page(s): Line(s)</b>	<b>Now Reads</b>	<b>Should Read</b>	<b>Reason</b>
174:3-4	by “they are not comfortable in the current state due to subjectivity.” I think this is maybe referring to	by “they are not comfortable in the current state <b>calling items fake</b> due to subjectivity.” I think this is maybe referring to	Transcription Error
Passim	StockX, LLC	StockX LLC	Typographical Error

I, Jacob Fenton, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on December 2, 2022; that I have made such corrections as appear noted herein; and that my testimony as contained herein, as corrected, is true and correct.

DATED this 4<sup>th</sup> day of January, 2023.

DocuSigned by:  
  
 7857D63565BC416...  
 Jacob Fenton